

## **NEW YORK EXPORTER SETTLES CHARGES OF ANTIBOYCOTT VIOLATIONS**

The U.S. Department of Commerce today announced that H. D. Sheldon & Company Inc., of New York, N. Y., agreed to pay a \$13,500 civil penalty to settle allegations that it violated the antiboycott provisions of the Export Administration Regulations (EAR).

The Commerce Department's Bureau of Industry and Security (BIS) alleged that, on two occasions in connection with transactions involving the sale and transfer of goods from the United States to Bahrain and Qatar, Sheldon furnished prohibited information about another company's business relationships with Israel in violation of the EAR. BIS also alleged that, on five occasions, Sheldon failed to report in a timely manner its receipts of requests from Dubai to provide such certification.

The antiboycott provisions of the EAR prohibit U.S. persons from complying with certain requirements of unsanctioned foreign boycotts, including furnishing information about business relationships with or in Israel. In addition, the EAR requires that U.S. persons report their receipt of certain boycott requests to the Department of Commerce.

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of )  
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H D Sheldon & Company, Inc )  
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Case No. 04-05

SETTLEMENT AGREEMENT

This agreement is made by and between H D Sheldon & Company, Inc ("Sheldon"), a domestic concern incorporated in the State of New York, and the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce ("BIS"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. §§ 2401-2420 (2000)) (the "Act").<sup>1</sup>

<sup>1</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), continues the Regulations in effect under IEEPA.

WHEREAS, BIS has notified Sheldon of its intention to initiate an administrative proceeding against Sheldon, pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated May 17, 2005, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, Sheldon has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Sheldon fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and Sheldon states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Sheldon neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Sheldon agrees to be bound by the appropriate Order ("Order") when entered;

NOW, THEREFORE, Sheldon and BIS agree as follows:

1. Under the Act and the Regulations, BIS has jurisdiction over Sheldon with respect to the matters alleged in the Proposed Charging Letter.

2. BIS will impose a civil penalty in the amount of \$ 13,500. Sheldon will pay to the U.S. Department of Commerce, within 30 days of receipt of service of the Order, and in accordance with the terms of the Order, when entered, the amount of \$ 13,500 in complete settlement of all matters set forth in the Proposed Charging Letter.
  
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Sheldon. Failure to make payment of this amount shall result in the denial of all of Sheldon's export privileges for a period of one year from the date of entry of the Order.
  
4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 9 hereof, Sheldon hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:
  - A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
  - B. Request a refund of the funds paid by Sheldon pursuant to this Settlement Agreement and the Order, when entered; or

- C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.
5. BIS, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Sheldon with respect to any violation of Section 8 of the Act or Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by BIS in the course of its investigation.
  6. Sheldon understands that BIS will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
  7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Sheldon that it has violated the Regulations, or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, BIS may not use this Settlement Agreement against Sheldon in any administrative or judicial proceeding.

8. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances herein addressed. This paragraph shall not limit Sheldon's right to challenge any action brought by any other agency based on a referral by BIS or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

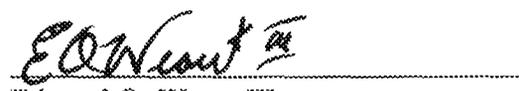
9. This Settlement Agreement will become binding on BIS only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

H D SHELDON & COMPANY INC

  
\_\_\_\_\_  
ROBERT METROS

DATE: July 18, 2005

U.S. DEPARTMENT OF COMMERCE

  
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Edward O. Weant III  
Acting Director  
Office of Antiboycott Compliance

DATE: 7/26/05

Attachment



PROPOSED CHARGING LETTER

May 17, 2005

H D Sheldon & Company Inc  
143 West 29<sup>th</sup> Street – 12<sup>th</sup> Floor  
New York, NY 10001

Attention : Robert Metros

Case No. 04-05

Gentlemen/Ladies:

We, the Bureau of Industry and Security, United States Department of Commerce (“BIS”), have reason to believe that you, H D Sheldon & Company Inc, on seven occasions, have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (50 U.S.C. §§ 2401-2420 (2000)) (the “Act”).<sup>2</sup>

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<sup>1</sup> The alleged violations occurred during the period 2000 through 2004. The Regulations governing the violations at issue are found in the 2000 through 2004 respective versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000, 2001, 2002, 2003 and 2004)). The prior years’ Regulations are substantially the same as the 2004 version of the Regulations which govern the procedural aspects of this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2350 (2000)) and remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), continues the Regulations in effect under IEEPA.



We charge that you committed two violations of Section 760.2(d) of the Regulations, in that, on two occasions, with intent to comply with, further or support an unsanctioned foreign boycott, you furnished information about another person's business relationships with another person who is known or believed to be restricted from having any business relationships with or in a boycotting country.

We also charge that you committed five violations of Section 760.5 in that, on five occasions, you failed to report to the Department of Commerce ("Department") your receipt of a request to engage in a restrictive trade practice or boycott, as required by the Regulations.

We allege that:

You are a domestic concern incorporated in the State of New York. As such, you are a United States person as defined in Section 760.1(b) of the Regulations.

During the period 1999 through 2003, you engaged in transactions involving the sale and transfer of goods from the United States to Bahrain and Qatar, activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations.

**Charges 1 - 2 (15 C.F.R. § 760.2(d) - Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons)**

In connection with the activities referred to above, on two occasions, you furnished information as described in Table A, which is attached and incorporated herein by this reference, concerning another person's business relationships with another person who is known or believed to be restricted from having any business relationship with or in a boycotting country. Providing the information described in Table A, with intent to comply with, further or support an unsanctioned foreign boycott, is an activity prohibited by Section 760.2(d) of the Regulations, and not excepted. We therefore charge you with two violations of Section 760.2(d).

**Charges 3 - 7 (15 C.F.R. § 760.5 - Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States)**

In connection with the activities referred to above, during the period 1999 through 2003, on five occasions, you received a request to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott, as described in Table B, which is attached and incorporated herein by this reference. Section 760.5 of the Regulations requires United States persons to report to the Department their receipts of such requests. You failed to report to the Department your receipts of these requests.

By failing to report your receipts of these requests, as directed by Section 760.5 of the Regulations, you are in violation of Section 760.5. We therefore charge you with five violations of Section 760.5 of the Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.<sup>3</sup>

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and under Section 766.18 of the Regulations, to seek a settlement agreement.

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BIS and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center  
40 South Gay Street  
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should also be served on the Bureau of Industry and Security at:

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<sup>3</sup> Administrative sanctions may include any or all the following:

- a. A civil penalty of \$11,000 per violation (see § 764.3(a)(1) of the Regulations and 15 C.F.R. § 6.4(a)(4)(2004));
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice before BIS (see § 764.3(a)(3) of the Regulations).

Office of the Chief Counsel for Industry and Security  
Room H-3839  
Bureau of Industry and Security  
U.S. Department of Commerce  
14th Street & Constitution Avenue, N.W.  
Washington, D.C. 20230

Sincerely,

Edward O Weant, III  
Acting Director  
Office of Antiboycott Compliance

Attachments

TABLE A

Schedule of Alleged Violations of Section 760.2(d)  
Furnishing Prohibited Business Information

H D Sheldon & Company Inc.  
Case No. 04-05

Item	Document Furnished	On or About	Shipment to	Information Furnished
1	Agent's Certificate ✓	01.21.01	Falcon (Qatar)	"The Carrying Vessel...is eligible to enter the ports of Qatar in conformity with it's (sic) laws and regulations."
2	Agent's Certificate	11.25.03	Awal (Bahrain)	"...the vessel is not banned entry to the ports of Arab States for any reason whatsoever under the laws and regulations of such states."

**TABLE B**

**Schedule of Alleged Violations of Section 760.5  
Failure to Report Receipts of Boycott Requests**

H D Sheldon & Company Inc.  
Case No. 04-05

Item	Letter of Credit Number	Date Request Received	Boycotting Country	Boycott Request
1	National Bank of Bahrain : L/C # 43.0944	10.05.99	Bahrain (Awal)	"Signed certificate issued by the owners, master or agents of the carrying vessel certifying that...the vessel is not banned entry to the ports of Arab states for any reason whatsoever under the laws... of such states."
2	Banque Paribas (Qatar) : L/C # 21341.00	01.15.00	Qatar (Al Rayes)	"A certificate from the owner, agent or captain of the carrying vessel...confirming that the vessel...is permitted to enter Qatar port."
3	United Bank Ltd (Qatar) : L/C # DOH.90014219.2001	11.27.01	Qatar (Abdullah)	"Certificate... from the agent or shipping company...of the carrying vessel...confirming that it...is permitted to enter any Arab ports required."
4	Banque Paribas (Bahrain) : L/C # FIM.01468.ARV	11.28.01	Bahrain (Awal)	"...signed certificate issued by carrying vessel's owners, master or agents certifying that the ship is not prohibited from entering Bahrain ports for any reason in accordance with Bahrain rules and regulations."
5	National Bank of Bahrain : L/C # 47.0572	09.23.03	Bahrain (Awal)	"Signed certificate issued by the owners, master or agents of the carrying vessel certifying that...the vessel is not banned entry to the ports of Arab states for any reason whatsoever under the laws... of such states."

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of )  
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 ) Case No. 04-05  
H D Sheldon & Company Inc )  
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ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), having determined to initiate an administrative proceeding pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C. §§ 2401-2420 (2000)) (the "Act")<sup>1</sup> and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2005))(the "Regulations"), against H D Sheldon & Company Inc ("Sheldon"), a domestic concern incorporated in the State of New York, based on allegations set forth in the Proposed Charging Letter, dated May 17, 2005, that alleged that Sheldon committed seven violations of the Regulations;

<sup>1</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), continues the Regulations in effect under IEEPA.

Specifically, the charges are:

1. *Two Violations of 15 C.F.R. §760.2(d) - Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons:*

During the period 1999 through 2003, Sheldon engaged in transaction(s) involving the sale and/or transfer of goods from the United States to Bahrain and Qatar. In connection with these activities, on two occasions, Sheldon, with intent to comply with, further or support an unsanctioned foreign boycott, furnished information concerning another person's business relationships with another person who is known or believed to be restricted from having any business relationship with or in a boycotting country, an activity prohibited by Section 760.2(d) of the Regulations, and not excepted.

2. *Five Violations of 15 C.F.R. §760.5 - Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States:*

During the period 1999 through 2003, Sheldon engaged in transaction(s) involving the sale and/or transfer of goods from the United States to Bahrain and Qatar. In connection with these activities, Sheldon, on five occasions, received a request to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott. Sheldon failed to report its receipts of these requests to the Department of Commerce, as directed by Section 760.5 of the Regulations.

BIS and Sheldon having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby the parties have agreed to settle this matter in accordance with the terms and conditions set forth therein and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED THAT:

FIRST, a civil penalty of \$ 13,500 is assessed against Sheldon and shall be paid to the U.S. Department of Commerce in the following manner: \$ 6,750, within 30 days from the date of entry of this Order; and \$ 6,750, on the first anniversary of the date of entry of this Order. Payment of these sums shall be made in the manner specified in the attached instructions.

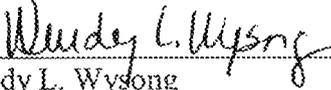
SECOND, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1983 and Supp. 2001)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due dates specified herein, Sheldon will be assessed, in addition to the full amount of the penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$ 13,500 is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted, to Sheldon.

Accordingly, if Sheldon should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order under the authority of Section 11(d) of the Act denying all of Sheldon's export privileges for a period of one year from the date of the entry of this Order.

FOURTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Sheldon.

This Order, which constitutes the final agency action in this matter, is effective immediately.

  
Wendy L. Wysong  
Acting Assistant Secretary of Commerce for  
Export Enforcement

Entered this 27th day of July, 2005

Attachments

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. Department of Commerce  
Bureau of Industry and Security  
**Room 6881**  
14th & Constitution Avenue, N.W.  
Washington, D.C. 20230

Attention: Sharon Gardner

## NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1983 and Supp. 2001)) and the Federal Claims Collection Standards (65 Fed. Reg. 70390-70406, November 22, 2000, to be codified at 31 C.F.R. Parts 900-904), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C. §3717 and 31 C.F.R. §901.9.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C. §3717 and 4 C.F.R. §901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2 of the Federal Claims Collection Standards (31 C.F.R. §901.2(b)).